

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRUCE PARKER, #593090,

Plaintiff,

v.

CASE NO. 2:12-CV-14321
HONORABLE NANCY G. EDMUNDS

LINDA HAASE, et al.,

Defendants.

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ORDER DISMISSING AMENDED CIVIL RIGHTS COMPLAINT AND
DENYING MOTIONS FOR APPOINTMENT OF COUNSEL AND SERVICE

This matter is before the Court on Plaintiff's amended civil rights complaint brought pursuant to 28 U.S.C. § 1983, as well as his motions for appointment of counsel and service, in this closed case. The Court dismissed his initial complaint for failure to state a claim upon which relief may be granted and denied the same motions for appointment of counsel and service. The Court did not retain jurisdiction over the case.

Petitioner has not moved to re-open this case or to proceed on an amended complaint. Nonetheless, any such request would be futile. While a federal court generally has discretion to allow amendment of a civil complaint, see Fed. R. Civ. P. 15(a), such is not the case where, as here, the Court has already dismissed the complaint. Under Federal Rule of Civil Procedure 15, once a judgment has been entered in a case, the filing of an amendment is not allowed unless the judgment has been set aside or vacated. See *In re Ferro Corp. Derivative Litigation*, 511 F.3d 611, 624 (6th Cir. 2008); accord *Griffey v. Lindsey*, 345 F.3d 1058, 1062 (9th Cir. 2003); *Pitts v. Champion*, 16 F. App'x 975, 977

(10th Cir. 2001); *Harris v. City of Auburn*, 27 F.3d 1284, 1287 (7th Cir.1994). No such action has occurred in this case. Moreover, to the extent that Plaintiff seeks to cure a defect in his initial pleadings, his complaint must be dismissed and his motions denied. The Court may not permit Plaintiff to amend his complaint to defeat summary dismissal. See *Baxter v. Rose*, 305 F.3d 486, 488-89 (6th Cir. 2002) (citing *McGore v. Wigglesworth*, 114 F.3d 601, 612 (6th Cir. 1997)); see also *Clayton v. United States Dep't. of Justice, et al.*, 136 F. App'x 840, 842 (6th Cir. 2005). Accordingly, the Court **DISMISSES** the amended complaint and **DENIES** the motions for appointment of counsel and service. This case is closed. No further pleadings should be filed in this matter.

IT IS SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: November 2, 2012

I hereby certify that a copy of the foregoing document was served upon counsel of record on November 2, 2012, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager